

Town of Barre  
Planning Commission  
March 17, 2021

The Town of Barre Planning Commission held a meeting on Wednesday, March 17, 2021 beginning at 7:00 p.m. by electronic means, Zoom video conference and teleconference. There was no physical meeting place for this meeting under Covid-19 legislative authority.

**MEMBERS PRESENT-ZOOM:**

Chris Violette, Mike Gilbar, Cedric Sanborn, George Clain, and Deb Pierce

**MEMBERS ABSENT:**

Bryon Atwood

**STAFF PRESENT- ZOOM:**

Chris Violette and Cindy Spaulding

**OTHERS PRESENT**

Kim Williams, Alice Farrow, David Rouleau, Elisa & Mike Pratt, Sheila Cleary, Kelly Wilder, Ron Poulin and Brian Fecher (Websterville Baptist Church)

**1) CHANGES TO THE AGENDA**

Mr. Sanborn called the meeting to order at 7:00 p.m.

Mr. Violette requested to add under Follow Ups: Updates on Granview Solar Project and Central Vermont/Efficiency Vermont Energy report.

**2) APPROVAL OF MINUTES**

February 17, 2021

*On motion by Mr. Gilbar, second by Ms. Pierce, the Planning Commission approved minutes of February 17, 2021 as corrected. Vote 5-0-0.*

**3) ALLOWED USE DETERMINATION**

a. Williams

**Request by Sarah Williams for allowed use determination in accordance with Article 2, section 2.4 (c) whereas the applicant is proposing a use not allowed in the East Barre Commercial zone. The applicant is proposing to use the apartment at 9 Bianchi Street as a dog walking and sitting business. Property is owned by 9 Bianchi LLC: Parcel ID: 025/143.00; AU-21000001.**

This is a warned public hearing to consider a request by Sarah Williams to seek an allowed use determination in accordance with the Barre Town Zoning Bylaw, Article 2, section 2.4 that reads as

follows:

*(C) Any uses not specifically permitted in any given zone may be considered and allowed if, after review by the Planning Commission in a public hearing, the Planning Commission determines that the use will not alter the characteristics of the area and will not cause an undue burden on the community.*

Ms. Williams owns and operates Sarah's Dog Walking & Pet Sitting LLC out of her apartment located at 9 Bianchi Street in East Barre. Ms. Williams received an Article of Organization from the State of Vermont as a Domestic Limited Liability Company for pet care in November of 2020. Ms. Williams previously operated this business unpermitted from 20 West Cobble Hill Road.

Ms. Williams provides a narrative as requested that describes her daily operation. She does not provide specific answer to the criteria used to help make decisions on whether to issue an Allowed Use Determination Permit (AUD).

In her narrative, Ms. Williams describes having a small front and back yard for the dogs and also mentions a park (which is a Town Park) in close proximity. She also rightfully notes that the area has mixed uses, between residential and commercial. Ms. Williams notes that customers either drop their pets off before 10:30 a.m. or she picks them up. Dogs are picked up between 3:00 and 5:00 p.m. She notes that she has four to six dogs a day. Sometimes she operates on weekends. Ms. Williams states that she will take the dogs to various locations around Central Vermont to let the dogs walk and notes that she cleans up after the dogs.

Inside her apartment, Ms. Williams states that she uses crates to put the dogs in during the day and does not offer overnight boarding.

The Barre Town Zoning Bylaw only contemplates a "kennel/animal shelter" which are allowed in highway commercial zones and conditional uses in low density residential. A kennel/animal shelter is defined as: *A place where domestic animals excluding livestock are bred and raised and are sold or kept for sale or boarded. When used to define a refuge established for the temporary care and holding of animals, it shall follow the guidelines set out for Veterinary Clinics.*

The zoning bylaw does not provide a clear path for a daily use dog daycare or walking service. That limitation is what led me to advise Ms. Williams to seek the AUD. I had notified her previously that operating a business without a permit issued by the Town was a violation of zoning.

I have been aware of Ms. Williams business since summer of 2020 when I received complaints from neighbors or fellow tenants at 20 West Cobble Hill Road. I contacted her landlord in that case and advised him that Ms. Williams didn't have a permit and that he should have her cease operation or attempt to get a permit. The landlord was concerned about the issues and said that he would take care of it. Other than knowing the situation at 20 West Cobble Hill Road had resolved itself, I wasn't aware of how or what had happened to Ms. Williams operation until I began to receive complaints at 9 Bianchi Street. That is when I realized that she had relocated her business to this location.

As I had done in the past, I reached out to Ms. Williams landlord, Lucky Boardman of 9 Bianchi Street LLC. Phone calls and letters went unanswered or ignored. On February 3, 2021 I reached out to Ms. Williams via email (obtained from her business website) to inform her that she was operating without a permit in violation of Barre Town Zoning Bylaw. I informed her of the consequences of continuing to operate without a permit and provided her with a potential path forward, the Allowed Use Determination

which she is now seeking.

Upon receiving my email, Ms. Williams promptly responded indicating that she was unaware of the need for a Town permit. She did note that after her last experience, she had learned to get landlord approval and applied for her LLC. In her email to me she indicated her willingness to apply for a permit. I then provided her with the application paperwork.

I became aware of Ms. Williams operation much like I did when she was at 20 West Cobble Hill when I started receiving complaints. Complaints range from dogs running lose, not picking up after them, going on other people's land, to being left in vehicles for extended periods of time. Many of these same complaints are also reflected in numerous complaints filed with the Police Department.

In addition, I am aware of complaints from operators of the Barre Town Dog Park located at the Barre Town Recreation Fields. Complaints here include bringing too many dogs (5 or 6) to soliciting her business. Whether this is still an issue or not I'm not sure but there was a culmination when she was issued a 30 day no trespass order by the Barre Town Police at the request of the Barre Town Recreation Department.

Below are the criteria historically used to help make the determination of no undue burden on the community or the proposed use not altering the characteristics of the area.

1. Emergency services:
2. Water, sewer, or other municipal utility systems:
3. The character of the area affected as defined by the purpose(s) of the zone within which the project is located, and specifically stated policies and standards of the municipal plan:
4. Traffic on roads and highways in the vicinity:
5. Zoning bylaws and bylaws then in effect:
6. The impact on neighboring uses:
7. Minimum lot size:
8. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw:
9. Loading/unloading facilities:

It is unlikely that criterion 2 and 9 are applicable here but the rest likely are. While there is unlikely any impact on Barre Town's Ambulance Service or Fire Department, there has already been significant impact on the Barre Town Police Department with 10 or so separate complaints and the no trespass order. Not to mention the impact on the Recreation Department.

The character of the area affected as defined by the purpose(s) of the zone is a bit vague as the purpose listed in the zoning bylaw refers to the East Barre Commercial Zone as: *This district is intended to reflect East Barre's inherent uniqueness given its long-standing mixture of uses including residential and commercial.* There is little argument on the uniqueness of East Barre with its mix between single and multi-family housing and commercial uses. Many of East Barre's neighborhood are small lots with houses in close proximity that often have small green spaces and are close to the road. This is certainly the case with Bianchi Street, a Street leading to a neighborhood that has likely existed for well over 100 years. The houses are very close to one another. I think it could be argued that operating any business from this area may be out of character of the area when factoring in traffic, the impact on neighboring uses, parking, and the ability to offer enough room to operate.

Traffic is another area of concern. While Bianchi is a Town paved class III road, it is narrow almost its entire way but especially at 9 where Ms. Williams lives. There could be times, and in fact I have been made

aware of, customers having to park in the street and on neighbors' lawns.

The impacts on neighboring uses, are in line with the character of the neighborhood and parking where there already appears to be negative impacts on neighbors based on complaints I've received along with the Police Department.

Minimum lot size may or may not be a concern. The parcel at 9 Bianchi Street is larger than most at .3 acres which is just under the minimum lot size. I think it goes without saying that the minimum lot size from a zoning standpoint is not an issue because while nonconforming, it is preexisting so allowed. However, one could potentially question the viability of the proposed use on a small lot where the building and paved parking takes up much of the room.

Finally, off-street parking has already been discussed but to further that discussion as a two-unit apartment house there needs to be parking available for four vehicles at all times. While there is likely enough parking to meet the minimum parking requirements as an apartment house, there may not be for a business use. The lack of parking is probably what has led to the on-street parking mentioned earlier.

### **SUMMARY AND RECOMMENDATION**

There is probably much to discuss about the proposed dog daycare and walking business proposed for 9 Bianchi Street. I do expect a few interested persons to provide testimony. I think there is a need for the type of services that Ms. Williams is proposing. However, when you factor in the criteria impacts above, I believe it will be hard to make a determination that the proposed use will not alter the characteristics of the area and that it won't cause an undue burden on the community. I think there is ample evidence to the contrary of both thresholds and as a result, I can not recommend approval for the Dog Daycare and walking business at 9 Bianchi Street.

While currently in violation and will continue to be if this permit is not issued, I would give Ms. Williams 30 days to cease operation and if not, a notice of violation could be issued to both her and the landlord. If a violation order is issued, it would likely lead to a \$100 a day fine with each day potentially constituting a new violation.

### **DISCUSSION**

Mr. Violette recused himself as a member of the Planning Commission. Mr. Violette as the Zoning Administrator provided an overview of his staff report as stated above. He reported that Ms. Williams has withdrawn her application for a dog walking/sitting business after she was provided a copy of Mr. Violette's staff report and realized that she unknowingly caused undue burden on her neighbors and was not aware that she was violating the zoning bylaws.

Mr. Violette has informed Ms. Williams that she must stop her dog walking at 9 Bianchi Street within thirty days.

Discussion ensued concerning the proper procedure to deny a withdrawn application in the affirmative without prejudice.

***Mr. Gilbar made a motion to approve a request by Sarah Williams for allowed use determination to use the apartment at 9 Bianchi Street as a dog walking and sitting business, seconded by Ms. Pierce. Vote 0-4-0. Motion is defeated and application denied without prejudice.***

CONDITIONS Yes \_\_\_\_\_ No X

MOTION BY: GILBAR

SECOND BY: PIERCE

**ROLL CALL:**

Cedric Sanborn	<u>NO</u>	George Clain	<u>NO</u>
Bryon Atwood	<u>ABSENT</u>	Deb Pierce	<u>NO</u>
Chris Violette	<u>RECUSED</u>	Mike Gilbar	<u>NO</u>

*On motion by Mr. Clain, second by Mr. Gilbar, the Planning Commission closed the public hearing of Sarah William’s application that was withdrawn. Vote 4-0-0.*

b. Websterville Baptist Church

**Request by Websterville Baptist Church for an allowed use determination in accordance with Article 2, Section 2.4 (c) whereas the applicant proposes a use not allowed in Industrial zone. The applicant is proposing to use the property at 223 Church Hill Road (St. Sylvester Church) as a private school and staff housing. The property is owned by the St. Sylvester Parish Charitable Trust; Parcel ID 002/009.00; AU-21000002.**

This is a warned public hearing to consider a request by Websterville Baptist Church to seek an allowed use determination in accordance with the Barre Town Zoning Bylaw, Article 2, section 2.4 that reads as follows:

*(C) Any uses not specifically permitted in any given zone may be considered and allowed if, after review by the Planning Commission in a public hearing, the Planning Commission determines that the use will not alter the characteristics of the area and will not cause an undue burden on the community.*

A detailed narrative is included in your packets. It should also be noted that Reverend Brian Fecher appeared before the Planning Commission last month for a conceptual discussion about their plans and to seek direction as to the best way to move forward the quickest and most efficient way possible.

As noted in Mr. Fecher’s letter outlining the churches proposal and criteria response, the Websterville Baptist Church would purchase the now vacant St. Sylvester Church property which includes the church and former rectory on 1.8 acres of land. The St. Sylvester Church held its last mass in the fall of 2020 and for the most part has been vacant since.

Websterville Baptist Church and Ministries has been seeking potential ways to expand their operation of both a Christian Academy and Nursery/pre-school for some time. The St. Sylvester property offers a unique opportunity to increase their services in close proximity to their existing campus.

Mr. Fecher lays out the vision for expansion in his letter which includes moving grades 1<sup>st</sup> through 6<sup>th</sup> to the St. Sylvester property which would then allow them to use their existing main campus for an expansion of the Little Flock Nursery and Pre-school. There could also be a future use of the old rectory

to provide staff housing as needed or other potential uses yet to be determined.

The Barre Town Zoning Bylaw accommodates private educational institutions in all residential zones and highway commercial zone by Conditional Use Permit. The St. Sylvester property is zoned industrial which does not allow for educational uses which is what brings this application before the Planning Commission.

Below are the criteria historically used to help make the determination of no undue burden on the community or the proposed use not altering the characteristics of the area. Pastor Fecher has supplied responses in his attached narrative.

1. Emergency services:
2. Water, sewer, or other municipal utility systems:
3. The character of the area affected as defined by the purpose(s) of the zone within which the project is located, and specifically stated policies and standards of the municipal plan:
4. Traffic on roads and highways in the vicinity:
5. Zoning bylaws and bylaws then in effect:
6. The impact on neighboring uses:
7. Minimum lot size:
8. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw:
9. Loading/unloading facilities:

The relocation of the existing 1<sup>st</sup> through 6<sup>th</sup> grade is unlikely to have any impact on emergency services because it exists today. Expanding the Nursery and Pre-school could have some impact because of the additional students expected at the existing campus. However, it is unlikely that adding the potential number of people as proposed would be sufficient to significantly impact Barre Town's Emergency Services.

Both locations are served by municipal water and sewer. Even with the potential increase in students, the current systems have the capacity to serve, as a result, there should be little to no impact.

The character of the area affected is quite simply industrial or undeveloped. The St. Sylvester property is surrounded on two sides by Rock of Ages and on the other two is the Barre Town Forest. The closest residential use is nearly 1,000' away on Graniteville Road. While what is being proposed is clearly not industrial, the proposed use should not have impact on the current industrial use, especially because the St. Sylvester Church has existed for over 150' years at this location. The folks at the Websterville Baptist Church have a complete understanding of what Rock of Ages does and if they don't have a problem sharing the area, I can't imagine there would be a negative impact. There is unlikely any negative impacts to the Town Forest either.

Church Hill Road is a Town class III paved road and already provides access to both properties. The road has no issues serving either the church or school. The proposal calls for an expansion of the Nursery and Pre-school so there will be more traffic but only during certain times of the day and only during the school year. I do not think there is significant impact to Church Hill Road or any connecting road or intersection nearby.

There appears to be ample off-street parking.

## **SUMMARY AND RECOMMENDATION**

I have worried about what would happen to the St. Sylvester Church if left to decay. Leaving it empty could be a magnet for vandals or become a blight if left unused. Websterville Baptist Church provides an extremely valuable service and as noted in Mr. Fecher’s narrative there is a shortage of childcare in Vermont. Allowing their expansion to the St. Sylvester property seems to have several positive aspects and when reviewing the criteria, little to no significant negative impacts.

I recommend finding that the request by Websterville Baptist Church for Allowed Use Determination will not alter the characteristics of the area and will not cause an undue burden on the community thus allowing them to use the St. Sylvester property for educational purposes, future housing, or other uses that they may find beneficial to their operation.

**DISCUSSION**

Mr. Violette returned to the meeting as a member of the Planning Commission. Mr. Violette provided an overview of his staff report as stated above.

Mr. Sanborn stated that St. Sylvester’s church is surrounded by the town’s forest so there would not be any future development in the area.

Mr. Gilbar asked if there would be a negative impact with vehicle traffic between both campuses and along Church Hill Road for drop offs and pickups. Mr. Fecher stated there should not be a negative vehicle impact as both campuses have U-shaped driveways.

Mr. Clain and Ms. Pierce asked how the students would go between the two campuses as they were concerned with pedestrian traffic along Church Hill Road. Mr. Fecher stated that the students would be accompanied by teachers and use the rail path to avoid pedestrian traffic on Church Hill Road. A shuttle bus is also being explored.

Mrs. Farrell stated she was in support of the request.

*On motion by Mr. Gilbar, second by Ms. Pierce, the Planning Commission approved a request by Websterville Baptist Church for an allowed use determination in accordance with Article 2, Section 2.4 (c) whereas the applicant proposes a use not allowed in Industrial zone. The applicant is proposing to use the property at 223 Church Hill Road (St. Sylvester Church) as a private school and staff housing. The property is owned by the St. Sylvester Parish Charitable Trust; Parcel ID 002/009.00; AU-21000002. Vote 5-0-0*

CONDITIONS    Yes \_\_\_\_\_    No   X  

MOTION BY:                                  GILBAR    
 SECOND BY:                                  PIERCE  

**ROLL CALL:**

Cedric Sanborn	<u>  YES  </u>	George Clain	<u>  YES  </u>
Bryon Atwood	<u>  ABSENT  </u>	Deb Pierce	<u>  YES  </u>
Chris Violette	<u>  YES  </u>	Mike Gilbar	<u>  YES  </u>

**4) ZONING BYLAW DISCUSSION AND AMENDMENT**

Nothing was discussed

5) **TOWN PLAN DISCUSSION AND AMENDMENTS**

Mr. Clain quoted the below and suggested to amend the wording of “productive” to “prime” agricultural lands on page 68 of the town plan:

*“...With the goal of maintaining the Town’s rural character, protecting rural open space and agricultural heritage, removal of productive agricultural lands and green fields for solar development is prohibited...”*

Discussion ensued to making a draft working copy of the Town Plan as these suggested amendments come up. It could be side by side working document as the Zoning Bylaw is being updated.

Mr. Clain quoted the below and asked if the Planning Commission could start asking applicants of solar arrays to use earth tone materials.

*“Renewables shall be constructed using earth tone colored materials for panel frames, structural supports, and fences. All surfaces shall use non-reflective materials. Use of bright metallic materials is prohibited.”*

Discussion ensued regarding the Planning Commission does not regulate the types of materials or preference to color. It could be requested in a response letter for the Public Utility Commission to consider it when an application is submitted.

6) **OLD BUSINESS**

None

7) **OTHER**

None

8) **FOLLOW UP**

**Update on Granview Solar**

Mr. Violette reported that he, Mr. Clain and Mr. Sanborn met with the Selectboard on March 16<sup>th</sup> to inform them that Norwich Solar’s Granview project was built differently than presented during the 45-day notice for preferred site status. The Planning Commission and Selectboard (jointly or separately) will draft a letter to the Public Utility Commission outlining the concerns of not being notified of the sufficient changes in the solar project.

Mr. Clain stated his concerns and he would like further investigation:

- Why Norwich Solar’s prefile testimony was different from the plans submitted with the application to the PUC
- Why three phase power did not go up Granview Drive as presented
- Were the abutters notified on Granview Drive or the other street of the three phase power
- Check the bottom of the project to see if there was any impact to the water flow since it was built
- Possible request for additional plantings/vegetation along the bottom of corner of the solar array.

Mr. Violette asked if the Commission would like to invite Troy McBride of Norwich Solar to come to a future meeting to explain the project changes. All members agreed.



**Update on CVRPC/Efficiency Vermont's Energy Report**

Mr. Violette reported he and Mr. Sanborn are working on finalizing a draft letter to Central Vermont Regional Planning Commission and Efficiency Vermont outlining the potential inaccurate data in the Energy Report. The data for the town may include the City of Barre and other towns that use the 05641 zip code. Mr. Violette stated the Assessor's office provided data that is substantially different.

Mr. Violette announced that Ms. Pierce will not seek reappointment in May.

**9) ROUND TABLE**

None

**10) DELIBERATIVE SESSION AS NEEDED**

None

**11) ADJOURN!**

*On motion by Mr. Gilbar, second by Ms. Pierce, the Planning Commission adjourned at 8:06 p.m. All voted in the affirmative.*

Respectfully submitted,

Cindy Spaulding, Clerk

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Cedric Sanborn, Chair

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Mike Gilbar

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George Clain

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Bryon Atwood

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Chris Violette

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Deb Pierce